

REMARKS

This pre-appeal brief request for review is filed in response to the Final Action of November 27, 2007 in which claims 1-13 and 15-36 were finally rejected.

Response to Examiner's arguments, Section 3, page 2 of Detailed Action:

The Examiner's counter-argument is in error. He refers to paragraph [0132] of *Harumoto* and says that the S_target is described as a target value for the data amount to be stored in the buffer by the terminal. Paragraph [0132] of *Harumoto* reads.

"In the above (1), the parameter "S_target" is a target value for the data amount to be stored in the buffer by the terminal 102, and determined based on the entire capacity ("S_max") of the buffer included in the terminal 102 (in the example of FIG. 3, the reception buffer 505 and the decoder buffer 508) and the transmission capacity of the network 103. Therefore, the parameter "S_target" generally varies in value depending on the type of the terminal 102."

The Examiner seems to be correct in saying that the S_target is a target value for the data amount to be stored in the buffer by the terminal. However, if we carefully read what is really claimed in e.g. claim 1 we can find the following definition: *"buffering the media data in a buffer, the media data being included in data transmission units, the data transmission units ordered in a transmission order which is at least partly different from a decoding order of the media data in the data transmission units, wherein a parameter is defined indicative of the maximum number of data transmission units that precede any data transmission unit in a packet stream in the transmission order and follow the data transmission unit in the decoding order"*. (Emphasis added)

According to this definition the parameter is indicative of the maximum number of data transmission units that precede any data transmission unit in a packet stream. *Harumoto* says that the S_target indicates the data amount to be stored in the buffer. This parameter of *Harumoto* has nothing to do with packets of a packet stream. It only tells how many packets can be stored in the buffer. Moreover, the paragraph [0132] also says that the parameter S_target generally varies in value depending on the type of the terminal. The parameter of claim 1 is not dependent on the type of the terminal.

As a further showing that the Examiner's position is in clear error, reference is made to the phrase *determined based on the entire capacity ("S_{max}") of the buffer included in the terminal* in paragraph [0132] of *Harumoto*. We can see that the value of the S_{target} is dependent on the buffering capacity of the terminal, i.e., it is not dependent on the properties of the packet stream as is claimed in claim 1: "*the maximum number of data transmission units that precede any data transmission unit in a packet stream in the transmission order and follow the data transmission unit in the decoding order*".

Response to arguments, Section 4:

The Examiner argues that *the parameter S_{target} controls the flow of the data transmission units and ultimately affects and creates a difference between transmission order and the decoding order*. If we supposed that the parameter S_{target} really could control the flow of data transmission and could create a difference between transmission order and decoding order, it would mean that the difference between the transmission order and decoding order would be different with different terminals (*the parameter "S_{target}" generally varies in value depending on the type of the terminal*). Further, using the logic of the Examiner the amount of the data buffer capacity of the terminal would also affect to the difference between the transmission order and decoding order. This is clearly wrong. The transmission order and decoding order is not dependent on the buffering capacity but *inter alia* on the reference pictures possibly used in encoding pictures. In this context reference is made to page 18, lines 21—26 of the description of the subject application which reads: "*In JVT the display order and the decoding order of the pictures are not necessarily the same, wherein the reference picture has to be stored in a buffer (e.g. in the encoding buffer 1.1) as long as it is used as a reference picture. The encoder 1 also inserts information on display order of the pictures into the transmission stream.*"

If the parameter S_{target}, which is defined in the receiving terminal, would really control the flow of data transmission, the amount of reference pictures would change depending on the type of the terminal (as we recall, the *Harumoto* explicitly mentions that the type of the terminal generally affects to the value of the S_{target}). That is not

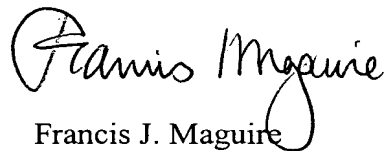
true. The contents of the pictures may affect to the number of reference pictures to be used in the encoding of a picture stream but not the type of the receiving terminal.

There is not any hint disclosure whatsoever in the *Harumoto et al* reference of the claimed subject matter wherein a parameter is defined indicative of the maximum number of data transmission units that precede any data transmission unit in a packet stream in the transmission order and follow the data transmission unit in the decoding order.

This request is accompanied by a petition for a two-month extension of time along with the \$460.00 fee therefore. If the petition is missing or the period of extension or fee is incorrect, the Commissioner is requested to consider this paper to be a petition for the appropriate extension period and to debit our Deposit Account No. 23-0442 the correct amount. This request also pertains to any extra claim fees that may have been overlooked.

The objections and rejections of the Office Action of November 27, 2007, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-13 and 15-36, as amended, to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Francis J. Maguire". The signature is written in a cursive style with a large, stylized initial 'F'.

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